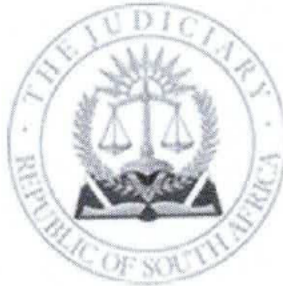


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: SS060/2023

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED: Yes
22/09/2026	
DATE	SIGNATURE

In the matter between:

The State

v

Sandile Sibekezelo Mbatha

Heard: 11-15, 21, 22 November, 04,05, 17 December 2024, 27 January, 03 April, 07 April, 17 April, 17-18 July, 10 September, 03 October, 14 November 2025.

Delivered: 14 November 2025, revised 22 April 2026.

JUDGMENT

Yacoob, J:

1. Mr Sandile Mbatha stands charged with 2 counts of murder read with s 51(1) and part 2 of Schedule 2 of Act 105 of 1997, 2 counts of attempted murder, two

counts of pointing a firearm, alternatively something a person is likely to believe is a firearm, and two counts of kidnapping. The two people with whose murder Mr Mbatha is charged are Mr Katleho Letseli and Mr Tshidiso Ramallo. The State relies on Mr Mbatha having acted in common purpose with his companions in the assault and murder charges.

2. Mr Mbatha pleaded not guilty to all charges, choosing not to give a plea explanation. Formal admissions were made regarding the identity of the two people with whose murder he was charged, the chain of custody and post-mortem reports relevant to the two bodies, and crime scene photographs.
3. The State called three witnesses: the two people who were the complainants in the attempted murder charges, and the investigating officer. After the State closed its case, an application was brought by Mr Mbatha in terms of s 174 of the Criminal Procedure Act 51 of 1977 ("the CPA"), which was dismissed. Thereafter, Mr Mbatha elected to change his legal representative, which led to some delays as the new representative had to be furnished with the transcripts of the evidence and read himself into the matter.
4. When the trial resumed, Mr Mbatha testified in his own defence.

THE STATE CASE

5. The first state witness was Mr Sifiso Irvin Nhlapo. He testified that on the evening of 21 January 2023, around 9pm, he was with his friend Mr Ramallo and they met a person who was the friend of Mr Mbatha. Mr Ramallo was admiring the tyres on the friend's car, which was a Nissan Almera. It was parked at an intersection, and Mr Mbatha's car was parked behind it. The friend took a

beer from his own car and in so doing realised that the headlights from Mr Mbatha's car, a VW Polo, were missing.

6. The friend asked Mr Nhlapo and Mr Ramallo if they know something about the headlights. Mr Mbatha was in the tavern, Toto, at the time. Around this time Mr Letseli (the other deceased) and Olwethu Mahlobo (the second State witness and complainant) arrived. Mr Mbatha's friend telephoned him to come out of the tavern.
7. Mr Nhlapo is a recycler and was collecting cans and bottles, and according to him Mr Ramallo was a car washer but he did not have any cars to wash at that time. According to Mr Nhlapo, he knew Mr Letseli just by seeing him around the streets, and Mr Mahlobo as a car guard, but he was not close to the two of them.
8. Mr Mbatha came running out of the tavern and had a firearm and a knife, and instructed the four men to get into his car. They did not want to get into the car, they were afraid.
9. Mr Nhlapo testified that Mr Mbatha said "where are my lights I am going to cut your throats today". All four of them got into the back seat of the Polo and Mr Mbatha drove towards a BP filling station. The friend of Mr Mbatha was driving in his own car and following.
10. According to Mr Nhlapo after they stopped at the BP he was hit with a bottle on the right side of his head above his ear, by Mr Mbatha from the driver's seat. Under cross-examination he stated that the assault occurred when Mr Mbatha was outside the car, through the driver's window. He demonstrated to the court that he has a scar. He said it was one of the bottles he had collected, he had got into the car with his collection, although Mr Mbatha's friends took it from him

at the BP. Mr Mbatha kept repeating that he was going to slaughter the four of them and asking where his lights were. Mr Mbatha's friends came to the other side of the car and hit Mr Letseli with another bottle.

11. There were then four vehicles in convoy and they were driven to an area between Diepkloof and Orlando, which Mr Nhlapo identified as the crime scene in the photographs. There Mr Letseli was taken out of the vehicle and Mr Mbatha hit him with his fists and kicked him. Mr Mbatha also had a knife and was attacking with the knife. Mr Mahlobo was then taken out and put in the boot of a Toyota Yaris, one of the other friends' cars. Mr Ramallo was taken into the boot of Mr Mbatha's car and Mr Nhlapo heard a gunshot. He had seen Mr Mbatha holding a gun.
12. Mr Nhlapo was the last to be taken out of the car, he was then made to sit on the ground, and told to remove his hands from his face. The assailants then saw blood running down onto his chest from the head wound. He pretended to collapse and acted like he was dead or unconscious. The assailants then drove off.
13. Mr Ramallo and Mr Letseli were lying on the ground bleeding. Mr Ramallo was making sounds like he was struggling to breathe and Mr Letseli was covered in blood. Mr Nhlapo ran to his home and cleaned himself, and then went back to the crime scene to ask people to come and help. He was scared and shocked. He then went back home and slept. The next morning he heard that people were dead at the place. He later went to the hospital for treatment and it took about two weeks for the injury to heal.
14. Mr Nhlapo did not know Mr Mbatha before the incident, he learnt his name because people were calling him Bab'uMbatha. He identified Mr Mbatha from

an identity parade. The identity parade form was handed up as an exhibit with no objection at the close of the State's case.

15. Mr Nhlapo admitted during cross examination that customers are searched when entering the tavern and not permitted to take weapons inside, however, he was insistent that Mr Mbatha did in fact have the weapons with him when he came out.
16. Under cross-examination he was asked about a person called Maczol, and he said that Mbatha's friends were chasing this person, at the time when he, Mr Nhlapo, was inside Mr Mbatha's car. He then disclosed that they went past Maczol's place before going to the BP. It was put to him that Mr Mbatha went inside Maczol's place and Mr Nhlapo denied this. He said they never stopped there.
17. Mr Nhlapo added during cross-examination that Mr Mbatha got back into the car at the crime scene and tried unsuccessfully to run over Mr Letseli with the vehicle, while Mr Nhlapo was still inside. He could see what was happening from the video screen on the vehicle which displayed what was happening.
18. He conceded that there were many things that happened that night and he may have forgotten some of the details. When it was put to him that Mr Mbatha's girlfriend was there, Mr Nhlapo agreed that a woman was with Mr Mbatha who kept saying leave these guys or take them to the police. Mr Nhlapo believed it was a side chick not a girlfriend because a girlfriend would not have allowed Mr Mbatha to assault someone so badly.
19. It was put to Mr Nhlapo that at Maczol's place Mr Mbatha instructed Mr Nhlapo to get out of his car and remained with only his girlfriend and Mr Mahlobo, Mr Nhlapo denied this. He then denied knowing anyone who was a car guard,

although he had previously testified that Mr Mahlobo was a car guard. Mr Mbatha's version that was put to Mr Nhlapo was that Mr Mbatha then went to drop off the girlfriend with only Mr Mahlobo in the car, and Mr Nhlapo denied this.

20. It was also put to Mr Nhlapo that Mr Mahlobo was "released" after they tried to telephone Maczol, and this was denied. Mr Mbatha's version that he never went to the crime scene was also denied. Mr Nhlapo testified that Mr Mahlobo told him he had been assaulted after Mr Mbatha dropped the girlfriend off.

21. It was put to Mr Nhlapo that Mr Nhlapo was trying to save him from the community which was assaulting him at the tavern, and he denied this.

22. The second state witness, Mr Olwethu Mahlobo, testified that he was on the street outside Dodo's pub, on 21 January 2023 around 9pm. He was helping people to park their cars.

23. Mr Mbatha passed with his girlfriend and asked Mr Mahlobo to check on his car, which was not within his sight at that time, but Mr Mbatha told him it had a registration number starting with KG. Mr Nhlapo did not go and look at the car immediately; he was busy with other people parking their cars. About 30 minutes later Mr Mbatha came running out of the tavern, and Mr Mahlobo followed him to his car. The car did not have headlights and Mr Mbatha asked him where his headlights were. Mr Ramallo and Mr Nhlapo were also there and Mr Mbatha asked them too. He learnt Mr Mbatha's name from Mr Mbatha's friends calling him that at the BP garage.

24. Mr Mbatha then took out a gun and asked them again where the lights are, and forced them into the car. Mr Mbatha's friend was in front with a Toyota Etios. Mr Mbatha told his friend to guard the three and went and fetched Mr Letseli who

had been washing a car, and put him also in the Polo. Mr Mbatha went back into the tavern and came back with his friends. Mr Mbatha and his friends hit Mr Mahlobo and the other three with Savanna bottles, asking where the lights were.

25. Mr Letseli then said that Maczol had taken the lights and Mr Letseli pointed him out. Mr Mbatha's friends ran after him and did not catch him. They then returned and got into their cars and asked Mr Mahlobo to show them where Maczol stays. There were four cars, the Polo, a Yaris, an Etios and a Corsa bakkie. All four cars drove to the BP. Maczol stays close to the BP. They went past Maczol's place but the gate was closed and they turned around and went to the BP. Nobody alighted at Maczol's place.

26. At the BP Mr Mbatha and his friends continued assaulting the four of them with bottles and shouting they will slaughter them. The four cars then went to the open veld which is the crime scene where the deceased were discovered. They put Mr Mahlobo in the boot of Mr Mbatha's Polo. While he was in the boot he heard Mr Letseli crying. He said he could see what was happening from the boot because he removed the boot cover, it was a hatchback. He also stated he was assaulted with a steering lock.

27. Afterwards the Polo drove off and he made a noise and Mr Mbatha stopped and put him in the rear seat. Mr Mbatha then drove to his own residence, and went inside and changed. He then made Mr Mahlobo hold the knife to put his fingerprints on it, and put it in the boot. He also took a picture of Mr Mahlobo and made him say his name and place of residence for a video. He was then released and went home, it was around 2am.

28. Mr Mahlobo recalled that Mr Mbatha's girlfriend had asked Mr Mbatha why they did not take the four to the police station. Mr Mbatha told her to be quiet, she knows nothing. It was the first time Mr Mahlobo had seen Mr Mbatha.

29. Under cross-examination Mr Mahlobo said Mr Mbatha was not carrying anything when he came out of the tavern. He had never been inside the tavern but he knew that sometimes people were searched and sometimes not. He insisted that the car of Mr Mbatha's friend was an Etios not an Almera. According to him they were first assaulted in the car outside the tavern, not at the BP, although the assault continued at the BP. They kept threatening to castrate them. The difference between slaughter and castrate was the problem with the interpreter. He confirmed that Mr Nhlapo had had his bottles and cans with him in the car. He had no cellphone but he had a watch so he knew the time. Under cross examination Mr Mahlobo stated that he was placed in the Yaris boot not the Polo. There was no subwoofer in that boot. He did not hear the gunshot.

30. Mr Mbatha had got into the Yaris and tried to drive over Mr Letseli. He knew this because he heard people shouting to him to stop. Mr Mbatha's friend later drove off with Mr Mahlobo in the boot. The vehicles then stopped and Mr Mbatha took him out of the Yaris and put him in the rear seat of the Polo. Mr Mbatha and one of his friends were in the Polo, and the girlfriend was in an Almera.

31. Mr Mahlobo denied that any community members were assaulting them, he was insistent that it was Mr Mbatha and his friends. Mr Mbatha also assaulted him at Mr Mbatha's residence with his open hand. He was not protecting them

from any crowd and he was never dropped at Maczol's place. He heard his friends screaming.

32. Sgt Mbonambi, the investigating officer, testified that he received the docket with statements from the two witnesses. They mentioned the name Mbatha and an incomplete car registration. They received information from informers and found Mr Mbatha. He went with Mr Mahlobo to the residential address and there was a silver Polo there. They then got the full registration number of the vehicle and found it was registered to Mr Sandile Mbatha. Eventually they found Mr Mbatha at the Primary school where he is a teacher. The deputy principal called Mr Mbatha and the police were given an empty room to meet him in. Mr Mbatha told him he doesn't know who killed those people. On being asked if he has a firearm Mr Mbatha said he only had a toy one which is at his place. They went to Mr Mbatha's place and Mr Mbatha showed him where the gun was. It was a toy gun that fires blanks. It would make a sound like a real firearm

33. Mr Mbatha was arrested at the school and advised of his rights.

34. Sgt Mbonambi only knew about a knife that was found in the clothing of the deceased. He did not take fingerprints but sent it for DNA analysis. No other knife was found. Mr Mbatha told him there was no tracker on the vehicle so he did not follow up on that.

THE DEFENCE CASE

35. Mr Mbatha testified that he was at the tavern on the night in question with his girlfriend, Nobuhle Ngcobo. He had gone there after getting a call from an acquaintance, Jack. He was in his Polo Vivo GT, a hatchback. It had a small boot and it had a subwoofer in it which took up much of the boot space. When

he parked and was walking to the tavern he heard someone saying they will look after the car and he did not know the person.

36. They were searched when entering the tavern and nothing was found on him.

He did not have a knife or a firearm. When in the queue his friend Jack was going out to his car. When he was inside and looking for a place to settle, his friend called him and told him to come outside. The first time he did not go, and the second time he did. He did not run because his friend had not explained anything.

37. As he was walking to his vehicle, he saw Jack and the vehicle and that it had no headlights. He was taken aback. He could see that there was an altercation behind his car. He then went back to fetch Ms Ngcobo. He was then emotionally drained. He placed Ms Ngcobo in the vehicle. Only then he went and asked about the headlights, this was the person who had said he would look after it. This was Mr Mahlobo.

38. Mr Mbatha was in a state of confusion and heartbroken and defeated, and asked Mr Mahlobo what was going on. There were other people there, pointing at other people and asking questions and being assaulted. Nobody said anything to him and he did not assault anyone.

39. Then suddenly a person appeared and everyone told him that is the person who took the headlights, Maczol. He and others ran after Maczol but could not catch him so they decided to follow in the cars. The girlfriend Ms Ngcobo was still in the car. Mr Mbatha did not force anyone to get in he just told them to get in. He first said he instructed all of them to get in, then that he only told Mr Mahlobo and then he saw all of them get in. They drove in the direction Maczol

had gone and did not find him. Mr Mbatha then asked Mr Mahlobo if he knew where Maczol stays and he said yes.

40. Mr Mbatha denied assaulting anyone at the BP. He also denied that Mr Nhlapo had his recycling with him, he claimed there was not space for Mr Nhlapo's recycling in the car.

41. They then went to Maczol's place at Mahlobo's direction. The four men disembarked and knocked but nobody was there. Mr Mbatha was confused and in (emotional) pain and Ms Ngcobo wanted to go home. Mr Mbatha then asked Mr Mahlobo to call Maczol and gave Mr Mahlobo his phone to do so, and at this time they were driving to drop off Ms Ngcobo. The others had been left behind at Maczol's.

42. According to Mr Mbatha he was never at the crime scene. He did however have a toy gun under his seat but it was broken and could not fire. They then went to Mr Mbatha's place with Mr Mahlobo, and he left Mr Mahlobo outside with the car and the phone and let Ms Ngcobo in. He went outside again and Mr Mahlobo said he did not get hold of Maczol. Mr Mbatha never got his lights either. Mr Mahlobo said they will find the lights, but they didn't. Mr Mahlobo told him you will find me and told him he was in grade 10D at a certain school, but Mr Mbatha did not remember the school name. Mr Mahlobo then left. He did not see anyone assault Mr Mahlobo. He did not try to drive over anyone.

43. Mr Mbatha confirmed that his vehicle had a video screen that showed what was happening behind the car when in reverse. He also confirmed that his vehicle did not have a tracker system.

44. Mr Mbatha first said he did not see Jack again after driving to the BP. They only spoke on the phone. Later he said that while they were looking for Maczol he

saw Jack but he told Jack he was going to leave Ms Ngcobo at home. Jack drives a white Almera. He did not see a Yaris or a Corsa Bakkie. Mr Mbatha said that a person would not fit in the boot of the Polo.

45. Under cross examination Mr Mbatha said that he was not with friends on the day. He does not know why the witnesses said his friends referred to him as Mbatha, Jack called him Sandile on the phone. He does not know how the witnesses knew his name. When being asked about the gun under cross examination he said he moved it from the side and put it under the seat, and that may have been how the witnesses saw it.
46. Mr Mbatha denied instructing the men to get into his car, he said he asked them to please get into his car. He denied Ms Ngcobo saying anything other than asking him to take her home. He denied that he was upset, he said he was heartbroken. He did not speak to Ms Ngcobo about what they were doing but she must have heard them talking about looking for Maczol when they got out of the vehicle.
47. Mr Mbatha did not call Ms Ngcobo to testify as he was not in a relationship with her anymore, he does not have her contact details and she was in the process of relocating. He did not report the theft of his headlights because the previous time it had happened reporting it did not help. He did not tell the investigating officer about Jack or Ms Ngcobo and had no reason for doing that.
48. Mr Mbatha denied having said to Ms Ngcobo that she must be quiet because she does not know about things. He also denied having asked the other three people to get in his car, he was only focused on Mr Mahlobo and they just followed him. He has no idea why the people who were helping him now accuse him.

ANALYSIS

49. The State must prove the case against the accused beyond a reasonable doubt. This must be established on a conspectus of all the evidence adduced. There is no onus or obligation on the accused. If the court finds the accused's version to be reasonably possibly true, the court must acquit.
50. That being said, the accused is not entitled to have his evidence as a single witness accepted without due analysis. The fact that he failed to call corroborating witnesses, and that there is no evidence of his version other than his own say-so, may lead to a conclusion that the probative value of the evidence is less than it otherwise may have been.
51. It was submitted on Mr Mbatha's behalf that Mr Nhlapo was simply lying in his evidence, and was deliberately misleading the court. It was submitted that Mr Nhlapo lied that he had no idea why he was accused of stealing the headlights. There is nothing in the evidence that supports this conclusion.
52. There were certain inconsistencies in the evidence. In my view none of these were material. Whether there was an Etios or an Almera or both is neither here nor there. On the material issues, the State witnesses corroborated each other and in my view are reliable.
53. Mr Mbatha's version that he was completely unconcerned by Jack's phone calls, despite the fact that Jack called him twice, and walked with no sense of urgency towards the vehicle, does not ring true. Nor does his claim that he spoke to nobody at all to ask what was going on. He did not speak to Jack, even though Jack was the one who called him. He slowly and calmly "placed" Ms Ngcobo in his car before going to see what the commotion was about. He

did not speak to Jack. He did not notice Mr Mahlobo being assaulted. He simply asked Mr Mahlobo to come to one side and spoke to him and him alone. He did not speak to Ms Ngcobo and tell her what was happening. When Maczol was noticed, suddenly the community stopped assaulting the three other men and they were able to go and chase Maczol, and then get into Mr Mbatha's car. He did not even notice Jack following him until he went to drop Ms Ngcobo home. The State witnesses learned his name by some unknown means and implicated him for no reason. He is unable to even find his ex-girlfriend on social media.

54. Mr Mbatha also contradicted himself about where the toy gun was and when it would have been seen by the witnesses. It is too coincidental that it was a gun that could make a sound like a real gun, but on that particular day it was broken.

55. None of these contentions hold together. In my view Mr Mbatha's version is not reasonably possibly true. Mr Mbatha was not open with the court and his evidence is rejected.

56. Mr Mbatha was clearly attempting to paint himself as a kind and gentle person who would never do anything violent. However, his own evidence that he took Ms Ngcobo and put her in the car supports the proposition that he is a person who would, as testified by the State witness, tell Ms Ngcobo to be quiet because she knows nothing about it. A person who treats a woman as an object rather than a person. He was attempting to make an impression on the court about the sort of person he is, which has failed.

57. Much was made of the fact that Mr Mbatha has a right to silence and therefore no obligation to assist the police. That is true. However, the right to silence does not extend to a right to avoid inferences being made when one does not disclose exculpatory evidence. The right to silence is an incident of the right not

to incriminate oneself, not an absolute right which allows one to raise all sorts of defences at trial and then blame the police for not having discovered things which were in the witness's own knowledge, such as the presence of Jack and Ms Ngcobo. The right to silence protects Mr Mbatha insofar as the State may not rely on the possibility that his evidence may fill gaps in its case. This of course is what s 174 achieves.

58. Similarly, argument was submitted regarding the duty of the state as a litigant in civil matters. Those arguments are not relevant here because the circumstances are entirely different. In a civil matter, the state has the same onus to discharge as any other litigant, and its powerful position is mitigated by its duty as a litigant. In a criminal matter, that position is catered for by the imposition of a higher onus. Certainly this does not entitle the state to behave unethically, but the state's duty regarding evidence and investigation is more than catered for in the fair trial requirements coupled with the higher onus.

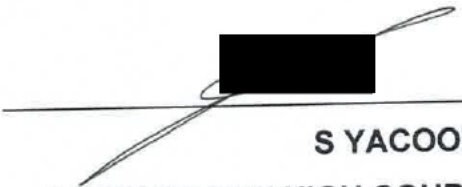
59. The state's witnesses made a good impression on the court. Their evidence was sometimes incomplete and sometimes inconsistent, but not in any material respect. Much was made of the fact that Mr Nhlapo said that Mr Mbatha drove over one of the deceased, and the post-mortem did not show such injuries. However, Mr Nhlapo's evidence was that there was an unsuccessful attempt to do so, not that he was successful in driving over.

60. Both Mr Nhlapo and Mr Mahlobo's evidence was convincing, their demeanour and their descriptions of sounds and actions had the ring of truth. Neither of them saw everything, and they did not pretend to.

61. The attempt to criticise the state for not investigating whether Mr Mbatha's vehicle had a tracking system when he told the investigating officer it did not is

misplaced. The police do not have to go and look for skittles. The responses of a witness or later an accused are part of the investigation and can be taken into account.

62. Overall, on the conspectus of the evidence, I am satisfied that the witnesses properly identified Mr Mbatha, that they clearly identified his role in the proceedings, and that they established his involvement. I am satisfied that it has been established that Mr Mbatha acted in common purpose with others in what resulted in the deaths of Mr Letseli and Mr Ramallo, and in the assaults of Mr Nhlapo and Mr Mahlobo. I am satisfied too that he used the toy gun as if it was a real one to threaten the complainants and force them into the vehicle.
63. As a result, I find Mr Mbatha guilty on all charges.


S YACOOB
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

For the State:	Mr M Mbaqa, Office of the Director of Public Prosecutions, Johannesburg.
For the Defence:	Mr B.N Forbay Mr K. Malepe
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